IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

Wednesday, the fourth day of August, two thousand and four

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.27099 OF 2003

BETWEEN:

1. A.Krishnaswamy Dikshithulu.
2. A.Vasudeva Dikshithulu.
3. A.Srinivasa Dikshithulu.
4. A.Gopinath Dikshithulu.
5. A.T.Ravichandra Dikshithulu.
6. A.Bhadrinarayana Dikshithulu.
7. A.T.Balaji Dikshithulu.
8. A.T.Ramana Dikshithulu.
9. A.T.Govinda Srinivasa Dikshithulu.
10. A.T.Krishnamurthy Dikshithulu.
11. A.T.Venkata Dikshithulu.
12. A.T.Naresh Dikshithulu.
13. A.T.Ramesh Dikshithulu.
14. A.T.Prasad Dikshithulu.
15. A.T.Kumar Dikshithulu.

16. A.T.Satish Dikshithulu.

17. A.T.Parthasaradhi Dikshithulu.

18. A.T.Govindaraja Dikshithulu.

19. A.V.Narayana Dikshithulu.

20. A.V.Ramana Dikshithulu.

21. A.T.Narasimha Dikshithulu.

22. A.P.Narasimha Dikshithulu.

23. A.P.Dayanadhi Dikshithulu.

24. A.Kumara Venkatapathi Dikshithulu.

25. A.Venkatperumal Dikshithulu.

26. A.V.Rajesh Dikshithulu.

Petitioners

And

1. Tirumala Tirupathi Devasthanams, represented by its Executive Officer, Tirumala, Chittoor District.

2. The Commissioner, A.P., Hindu Religious and Charitable Endowments, Hyderabad.

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, more preferably, one in the nature of writ of mandamus, declaring the act of the respondents in proposing to appoint Archakas to render service in Srivari Temple at Tirumala from outside the families of ex-hereditary Archakam Mirasidars, other than the petitioners, who are the existing officiating Archakas, which is contrary to Section 35(3) of Act 30/87 and further not responding to the representation of the petitioners dated 1-10-2003 as illegal, arbitrary and violative of Section 35(3) and Section 142 of the Act 30/87 and consequently direct the respondents to consider the representation of the petitioners, who are Ex.Archakam Mirasidars and appoint them for officiating the rituals in the Srivari Temple, Tirumala , Chittoor District.

For the Petitioner: Mr.M.Dorai Raj, Advocate.

For the Respondents: Mr.M.Adinarayana Raju, S.C.

The Court made the following :

ORDER:

Heard the learned counsel appearing for both parties.

The petitioners submit that they belong to erstwhile Archakam Mirasidar familes, rendering archakathvam service in the temples of Sri Varahaswamy and Sri Venkateswara Swamy at Tirmala hills and in the temples of Sri Govindaraja Swamy and its attached minor temples at Tirupathi. The archakatvan service originally vested in four families namely (1) Tirupathammagari family, (2) Peddinti family, (3) Gollapalli family and (4) Paidipalli family. It is stated that the petitioners 1 to 21 belong to Tirupathammagari family, petitioners 22 and 23 belong to Peddinti family and petitioners 24 to 26 belong to Gollappalli family. The hereditary rights in Mirasidar Archakas and other office holders and servants were abolished by virtue of Section 34 of Andhra Pradesh Charitable and Hindu Religious Institutions Act, 1987 (Act No.30 of 1987) (in short Act).

By virtue of Section 34(2) of the Act, Every office holder and servant mentioned in Clause (a) of Sub Section (1) holding office as such on the date of commencement of this Act shall, notwithstanding the abolition of the hereditary rights, continue to hold such office or post on payment of only such emoluments and subject to such conditions of service referred to in Sub-sections (3) and (4) of Section 35. As per Section 35(3) of the Act, every office holder, servant, Mirasidar, Archaka and Pujari whether hereditary or not holding office as such on the date of commencement of this Act, shall continue as such office holder or servant on payment of the prescribed emoluments. Under Section 35(4), the qualifications, method of recruitment and temporary appointments, pay and allowances, discipline and conduct and other conditions of service of the office holders and servants of a charitable and other religious institutions or endowment, shall be such as may be prescribed. Under Section 36, certain qualifications for the Archakas have been prescribed.

It is the case of the petitioners that they belong to erstwhile Archakam Mirasidar familes, rendering Archakatvam service in the aforesaid

temples and if they are qualified, they are entitled to be appointed as Archakas. It is stated that after upholding the abolition of hereditary rights in Mirasidars, Archakas and other office holders and servants by the Supreme Court in W.P.(Civil) No.638 of 1987 and batch (reported in A.I.R., 1996, S.C.1765) in the year 1996, notices have been issued to the members of hereditary Archaka families, requesting them to state in writing about their willingness to serve in the said temples if they are qualified, pending the committee recommendations and their finalisation on the cadre, scale of pay and service conditions applicable to them. It is stated that they have produced Photostat copies of their qualifications and bio-data as per the pro-forma supplied as annexure-II to the said notices. Even though the petitioners are qualified and submitted their applications, the respondents have not considered the same. It is further stated that all the petitioners who are the members of former hereditary Archakatvam Mirasidars made detailed representation dated 1-10-2003 to the first respondent, seeking their appointment as Archakas in the said temples, but the said representation has not been considered so far and without considering the said representation, the respondents are making arrangements for appointment of Archakas from outside families and without giving any opportunity to them to substantiate their claim. Under those circumstances, this Writ Petition has been filed to declare the action of the respondents proposing to appoint Archakas to render service in Srivari temple at Tirumala from the outside families of ex-hereditary Archakam Mirasidars, other than the petitioners who are the existing officiating Archakas.

The Executive officer, Tirumala-Tirupati Devastanams, Tirupati (respondent No.1) filed a counter, admitting that the aforesaid four families were rendering archakatvam service. It is stated that while upholding the abolition of hereditary rights of Mirasidars and Arhckas etc., the Supreme Court held that the candidates including those available from the erstwhile Mirasi familes would be considered based on a competency test and also when one is found qualified,

appointments will be made according to the prescribed procedure. It is stated that the committee appointed pursuant to the Judgment of the Supreme Court recommended that the person in the erstwhile Mirasi family should be considered on priority for filling up a post. Priority means, if the member of the erstwhile Mirasi family is equally qualified and come up in merit with the other competitors, then only priority will be given. But without considering the other competent candidates, the cases of the petitioners alone cannot be considered at the first instance.

It is further stated that the Tirumala-Tirupati Devastanam (TTD) has not so far taken up any recruitment from the open competition through a competitive test, because the review petitions filed by the ex-mirasidars against the aforesaid Judgment of Supreme Court is still pending. Tirumala-Tirupati Devastanam could not taken up any recruitment during the pendency of the review petition as it may otherwise unsettle any steps if taken by the TTD now in matters of recruitment. When the TTD., has not taken up any recruitment so far, the question of preferential treatment for the appointment of the petitioners does not arise.

It is stated that subsequent to the Judgment of the Supreme Court, individual notices were issued to the erstwhile Mirasi holders in 1996, requesting them to state in writing whether they are willing to serve in TTD., if they are qualified pending the committee recommendations and finalisation of the cadre, scale of pay and service conditions applicable to them. It is stated that though such notices are not required to be issued to all the members of erstwhile Mirasi families because they were not serving the temples on the crucial date as held by the Supreme Court, but still notices were given. It is stated that by taking a liberal view of Section 35(3), the Devastanam offered the opportunity of serving the temple to the eligible heads of Mirasi families and number of heads of such families who have opted for appointment was 16 and all of them were given appointments in regular scale of pay as recommended by the committee and approved by the Government. This privilege cannot be extended to

their children and grand children like the petitioners herein as otherwise, it would be endless perpetuating Mirasi system. It is stated that notices were not at all given to the petitioners calling upon them for their willingness to participate in the service, but their ancestors were only given notices. Only 16 members of the eligible Mirasi families came forward and they were appointed on regular basis. It is further stated that the Devastanam has taken the erstwhile Gumastas of erstwhile Mirasidars on contract basis on payment of Sambhavana when the Mirasidars deserted the temple services by withdrawing the said Gumastas. The said Gumastas are no longer under the employment of Mirasidars and the said Gumastas are working on contract basis only.

It is the specific case of Tirumala Tirpati Devastanam that TTD., has not taken up any recruitment from the open competition through competitive test, because the review petitions filed by Mirasidars are pending before the Supreme Court. But, the learned counsel appearing for the respondents submits that the Devastanam has already engaged erstwhile Archaka Gumastas on Sambhavana basis purely on temporary and transitory measure. As there is a need for more Archakas has arisen in the recent past, Devastanam has taken some more Archakas on adhoc basis through certain organizations like Vaikanasa Trust on payment of daily sambhavana, but it is not a regular recruitment and it is only engagement of some Archakas to meet the contingencies on day-to-day basis. The persons so appointed are not on regular pay scales or on regular service terms. Their services are liable to be dispensed with whenever there is no necessity. The petitioners are however free to participate in the regular recruitment test when conducted.

The learned counsel appearing for the petitioners submits that their representation dated 1-10-2003 is not considered and without considering the said representation, the appointment of other Archakas on adhoc basis is illegal and unjustified. The petitioners are

also willing to work on adhoc basis, pending the permanent recruitment and pending consideration of their representation.

Having regarding to the facts and circumstances of the case, pending consideration of the representation of the petitioners dated 1-10-2003, the first respondent is directed to consider the cases of the petitioners for their recruitment on adhoc basis along with others and if the qualifications of the petitioners and other merits are equal with others, preference may be given to the petitioners for such adhoc or temporary appointment and the representation of the petitioners dated 1-10-2003 may also be considered and disposed of in accordance with law, within two months from the date of receipt of this order.

The Writ petition is disposed of accordingly. No costs.

V.ESWARAIAH,J

4th August, 2004.

Shr

Asst. Registrar.

To

1. The Executive Officer, Tirumala Tirupathi Devasthanams, Tirumala, Chittoor District.
2. The Commissioner, A.P., Hindu Religious and Charitable Endowments, Hyderabad.
3. Two CD copies.